



UNIVERSITY OF TORONTO
FACULTY OF LAW

CASEBOOK

**From Blueprints to Buildings:
Legal Issues in the Construction Industry**

Volume 1

Duncan W. Glaholt
Adjunct Professor
Glaholt LLP
January, 2014

Storage

KE
933
.G53
2014
v.1
c.1

BORAVASKIN LAW LIBRARY


JAN - 5 2014

FACULTY OF LAW
UNIVERSITY OF TORONTO

CASEBOOK

From Blueprints to Buildings: Legal Issues in the Construction Industry

Duncan W. Glaholt
Adjunct Professor
Glaholt LLP
January, 2014



Digitized by the Internet Archive
in 2018 with funding from
University of Toronto

<https://archive.org/details/fromblueprintsto01glah>

Table of Contents

Seminar #1 – Introduction to Construction Law

| | |
|------------------------------------------------------------------------------------------------------------|----|
| Construction Sector Council, <i>Construction Looking Forward – National Summary</i> | 1 |
| Construction Sector Council, <i>Construction Looking Forward – 2013-2021 Key Highlights</i> | 31 |
| Statistics Canada, <i>Private and Public Investment</i> , 2013 | 37 |
| Philip L. Bruner, “The Historical Emergence of Construction Law” (2007) 34:1 William Mitchell Law Review 1 | 44 |

Seminar #2 – Architects and Engineers

| | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|
| <i>Cardinal Construction Ltd. v. Brockville (City)</i> , [1984] O.J. No. 238 (H.C.) | 68 |
| <i>Auto Concrete Curb Ltd. v. South Nation River Conservation Authority</i> , [1993] 3 S.C.R. 201 | 103 |
| <i>Edgeworth Contractors Ltd. v. N.D. Lea & Associates Ltd.</i> , [1993] 3 S.C.R. 206 | 107 |
| <i>Winnipeg Condominium Corp. No. 36 v. Bird Construction Co.</i> , [1995] 1 S.C.R. 85 | 116 |
| <i>1087086 Ontario Inc. v. Totten Sims Hubicki Associates (1997) Ltd.</i> (2006), 61 C.L.R. (3d) 106 (Ont. S.C.J.); aff’d (2007), 63 C.L.R. (3d) 1 (Ont. C.A.) | 141 |
| OAA Document 600 – 2013, <i>Standard Form of Contract for Architect’s Services</i> | 150 |

Seminar #3 – Contractors and Subcontractors

| | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|
| Thomas G. Heintzman and Immanuel Goldsmith, <i>Heintzman and Goldsmith on Canadian Building Contracts</i> , 4 th ed. (Toronto: Carswell, 1988), chapter 7 | 171 |
| Laura Baron, “Privity of Contract in the Construction Industry” (2008), 72 C.L.R. (3d) 170 | 187 |
| <i>Peter Kiewit Sons’ Co. of Canada v. Eakins Construction Ltd.</i> , [1960] S.C.R. 361 | 203 |
| <i>Penvidic Contracting Co. v. International Nickel Co. of Canada</i> , [1976] 1 S.C.R. 267 | 219 |

| | |
|---------------------------------------------------------------------------------------------------|-----|
| <i>Auto Concrete Curb Ltd. v. South Nation River Conservation Authority</i> , [1993] 3 S.C.R. 201 | 229 |
| <i>Naylor Group Inc. v. Ellis-Don Construction Ltd.</i> , [2001] 2 S.C.R. 943 | 233 |
| <i>Timbro Developments Ltd. v. Grimsby Diesel Motors Inc.</i> (1988), 32 C.L.R. 32 (Ont. C.A.) | 257 |
| <i>Winfield Construction Ltd. v. B.A. Robinson Co.</i> (1996), 27 C.L.R. (2d) 78 (Man. C.A.) | 260 |

Seminar #4 – Insurance & Sureties

| | |
|------------------------------------------------------------------------------------------------------------------------------------------|-----|
| R. Bruce Reynolds and Sharon C. Vogel, <i>A Guide to Canadian Construction Insurance Law</i> (Toronto: Carswell, 2013), chapters 1 and 5 | 275 |
| R. Bruce Reynolds, “Surety Bonds”, in Bullen & Leake & Jacobs, <i>Canadian Precedents of Pleadings</i> , pp. 573-592 | 297 |
| <i>Progressive Homes Ltd. v. Lombard General Insurance Co. of Canada</i> , [2010] 2 S.C.R. 245 | 319 |
| <i>Canadian National Railway Co. v. Royal and Sun Alliance Insurance Co. of Canada</i> , [2008] 3 S.C.R. 453 | 340 |
| <i>Citadel General Assurance v. Johns-Manville</i> , [1983] 1 S.C.R. 513 | 373 |
| <i>Paul D’Aoust Construction Ltd. v. Markel Insurance Co. of Canada</i> , [2001] 3 S.C.R. 744 | 382 |
| <i>Whitby Landmark Developments Inc. v. Mollenhauer Construction Ltd.</i> (2003), 28 C.L.R. (3d) 161 (Ont. C.A.) | 385 |

Seminar #5 – Owners & Infrastructure

| | |
|-----------------------------------------------------------------------------------------------------|-----|
| Canadian Infrastructure Report Card 2012 – Highlights | 396 |
| Infrastructure Ontario, <i>Partnering with Industry: Building Ontario’s Infrastructure Together</i> | 400 |
| Derek A. Brindle, “Owners’ Claims Against Contractors — A Primer” (2008), 70 C.L.R. (3d) 7 | 436 |

Seminar #6 – Workplace Health and Safety; Unions and Labour

| | |
|----------------------------------------------------------------------------------------------------------------------------------------------|-----|
| Charles E. Humphrey and Cheryl A. Edwards, <i>The Employer's Health and Safety Manual</i> (Toronto: Carswell, 2005) (excerpt) | 452 |
| Share, "History and Legislative Framework of Occupational Health and Safety in Canada: An Overview" | 463 |
| Daily Commercial News, "Queen's Park support builds to change agreement which ties Ellis-Don to using unionized workers", September 12, 2013 | 467 |
| Bill 74, <i>Fairness and Competitiveness in Ontario's Construction Industry Act, 2013</i> | 469 |

Seminar #7 – Bidding and Tendering

| | |
|-------------------------------------------------------------------------------------------------------|-----|
| <i>Ontario v. Ron Engineering & Construction (Eastern) Ltd.</i> , [1981] 1 S.C.R. 111 | 473 |
| <i>M.J.B. Enterprises Ltd. v. Defence Construction (1951) Ltd.</i> , [1999] 1 S.C.R. 619 | 484 |
| <i>Martel Building Ltd. v. Canada</i> , [2000] 2 S.C.R. 860 | 505 |
| <i>Double N Earthmovers Ltd. v. Edmonton (City)</i> , [2007] 1 S.C.R. 116 | 547 |
| <i>Tercon Contractors Ltd. v. British Columbia (Transportation and Highways)</i> , [2010] 1 S.C.R. 69 | 574 |

Seminar #8 – Standard Form Construction Contracts

| | |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|
| CCDC2 – 2008 – Stipulated Price Contract | 610 |
| CCA1 – 2008 – Stipulated Price Subcontract | 649 |
| <i>Bruner and O'Connor on Construction Law</i> , Vol. 2 (West, 2002), §§ 6:1 to 6:17 | 680 |
| <i>Pegah Construction Ltd. v. Panterra Mansions Joint Venture Corp.</i> (2013), 21 C.L.R. (4th) 175 (Ont. Master) | 707 |
| Charles G.T. Wiebe and Michael A. Valo, "Building Information Modeling", in Glaholt LLP and Borden Ladner Gervais LLP, <i>Review of Construction Law: Recent Developments</i> (Toronto: Carswell, 2012) at 61 | 721 |

Seminar #9 – Construction Liens and Trusts

| | |
|-----------------------------------------------------------------------------------------------------------------------------------|-----|
| <i>Construction Lien Act</i> , R.S.O. 1990, c. C.30 | 749 |
| <i>Minneapolis-Honeywell Regulator Co. v. Empire Brass Manufacturing Co.</i> , [1955] S.C.R. 694 | 796 |
| <i>Kennedy Electric Ltd. v. Dana Canada Corp.</i> , [2007] O.J. No. 3657 (C.A.) | 804 |
| <i>Sunview Doors Ltd. v. Academy Doors & Windows Ltd.</i> (2010), 101 O.R. (3d) 285 (C.A.) | 822 |
| Duncan W. Glaholt and Markus Rotterdam, “Defences to Breach of Trust Actions – We Spent All the Money” (2002), 10 C.L.R. (3d) 262 | 848 |

Seminar #10 – Construction Claims

| | |
|----------------------------------------------------------------------------------------------------------------------------------------|-----|
| <i>BG Checo International Ltd. v. British Columbia Hydro and Power Authority</i> , [1993] 1 S.C.R. 12 | 863 |
| R. Bruce Reynolds and Steven G. Revay, “Concurrent Delay: A Modest Proposal” (2007) 1 JCCCL 199 | 904 |
| <i>Negligence Act</i> , R.S.O. 1990, c. N.1 | 932 |
| <i>PDC 3 Ltd. Partnership v. Bregman+Hamann Architects</i> (2000), 49 O.R. (3d) 722 (S.C.J.); reversed (2001), 52 O.R. (3d) 533 (C.A.) | 935 |
| <i>Doyle Construction Co. v. Carling O’Keefe Breweries of Canada Ltd.</i> (1988), 27 B.C.L.R. (2d) 89 (C.A.) | 951 |

Seminar #11 – Construction Litigation and ADR

| | |
|----------------------------------------------------------------------------------------------------------------------------|-----|
| Duncan W. Glaholt, <i>Conduct of a Lien Action 2013</i> (Toronto: Carswell, 2012), Chapter 17: “Construction Industry ADR” | 970 |
|----------------------------------------------------------------------------------------------------------------------------|-----|

Seminar #12 – General Review and Revision of All Topics

